

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of NATIVIDAD D. MEDINA and DEPARTMENT OF THE AIR FORCE,
RANDOLPH AIR FORCE BASE, TX

*Docket No. 97-1492; Submitted on the Record;
Issued September 13, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant sustained a recurrence of disability on or after June 15, 1994, causally related to his January 1, 1990 employment injury.

On January 1, 1990 appellant, then a 55-year-old air conditioning equipment mechanic, sustained contact dermatitis due to exposure to chemicals at work, including freon.

In a report dated December 3, 1991, Dr. Charles S. Thurston, appellant's attending dermatologist, stated that he had treated appellant periodically since May 13, 1991 for a severe allergic reaction to freon and other petroleum products, to which he had been exposed at work. He related that appellant took precautions to avoid exposure to these substances but continued to have flareups with accidental exposure.

In a report dated July 12, 1993, Dr. Thurston stated that appellant had been treated for severe eczematous dermatitis for two years, which was directly related to exposure to freon and other chemicals at his employment. He stated that appellant should be removed completely from his job environment so that there was no possibility of exposure to chemicals.

By letter dated February 24, 1994, the employing establishment advised that as of February 3, 1994, appellant was assigned to a modified position with no prolonged exposure to concentrated amounts of refrigerants in confined spaces.

On June 24, 1994 appellant submitted a notice of recurrence of disability and claim for compensation alleging that he sustained a recurrence of disability on June 16, 1994 which he attributed to his 1990 employment injury. He indicated that he developed a rash on his arms, neck and face when he was exposed to chemicals at work.

In a form report dated June 15, 1994, Dr. Thurston diagnosed contact dermatitis due to exposure to freon and other chemicals and he indicated by checking the block marked "yes" that the condition was caused or aggravated by appellant's employment. Dr. Thurston wrote "patient

breaks out every time exposed to chemicals.” He indicated that appellant was totally disabled commencing on June 15, 1994.

In two letters dated June 29, 1994, Dr. Thurston indicated that appellant was totally disabled for the period June 15 and 29, 1994. However, he also stated that he was permanently disabled for work at his regular job due to frequent past exposures to chemicals in his work area.

A telephone memorandum dated July 21, 1994, indicated that appellant stated that he did not have any prolonged exposure to freon after February 1994. A telephone memorandum dated July 27, 1994, indicated that appellant was off work from February to April 1994, due to a heart condition and that he had an accidental exposure to freon on June 1, 1994.

By letter dated July 28, 1994, the Office of Workers’ Compensation Programs asked Dr. Thurston for additional information. The Office noted that appellant had only one major case of freon exposure between December 1993 and June 1994 and that he had been totally disabled due to a heart condition from February to April 1994. The Office asked Dr. Thurston whether appellant’s dermatitis cleared up between February and April 1994 and why appellant had not returned to work if he was deemed totally disabled only through June 29, 1994 by Dr. Thurston. The Office asked Dr. Thurston to provide medical rationale to support his opinion that appellant was totally disabled due to his employment.

The record shows that the Office did not receive a response from Dr. Thurston.

By decision dated August 29, 1994, the Office denied appellant’s claim for compensation benefits on the grounds that the evidence of record failed to establish causal relationship between his claimed recurrence of disability in June 1994 and his 1990 employment injury.

By letter dated September 14, 1994, appellant requested an oral hearing before an Office hearing representative and submitted additional evidence.

In a report dated August 3, 1994, Dr. Thurston related that appellant had been under his care for a dermatological problem involving his face, trunk and extremities since May 13, 1990. Dr. Thurston noted that in early 1994, appellant underwent cardiac surgery and that he saw appellant on March 25, 1994 for a flareup of dermatitis on his arms which Dr. Thurston thought was related to a medication. He stated that he treated appellant on April 14 and 18, 1994 on his return to work because he was accidentally exposed to various chemical fumes including freon. Dr. Thurston stated that appellant was treated over the next two months and on June 29, 1994 was told that he needed to avoid his workplace completely. He related that appellant continued to suffer from recurrent eczematous dermatitis which was aggravated by exposure to hot humid weather and even when appellant was not at his workplace. Dr. Thurston stated that appellant would make a partial if not full recovery only if he avoided his current work situation. He stated: “nonwork factors contributing to [appellant’s] dermatitis would appear negligible overall. Mevacor [a medication] was thought to have been a factor for a one- or two-week period in late March 1994. However, he has had freedom from his dermatitis in recent weeks when away from his workplace and while still taking Mevacor.”

In a letter dated March 10, 1995, the employing establishment stated that appellant had retired voluntarily on September 30, 1994 in order to take advantage of a \$25,000.00 retirement bonus incentive and that at the time of his retirement the employing establishment had work available which accommodated his medical restriction of no prolonged exposure to concentrated amounts of refrigerants in confined spaces.

On February 17, 1995 a hearing was held before an Office hearing representative at which time appellant testified. Included in his testimony was the statement that he did not have a skin rash while hospitalized for heart surgery in February 1994, but that the rash returned when he went back to work.

By letter dated February 9, 1996, the Office hearing representative wrote to Dr. Thurston for additional information. The hearing representative asked Dr. Thurston whether appellant had suffered a permanent sensitization to chemicals due to his exposure in the workplace in 1990 and, if so, whether the condition had rendered him permanently disabled or whether his exposure to chemicals at work caused a temporary period of disability and if so, when the period of disability ceased.

The Office hearing representative did not receive a response from Dr. Thurston.

By decision dated April 25, 1996, the Office hearing representative affirmed the Office's August 29, 1994 decision. He noted that the evidence of record did not establish that appellant sustained a recurrence of disability causally related to his 1990 employment injury. Dr. Thurston stated that it appeared that appellant might have had a new exposure in June 1994, for which he could file a new injury claim if he so desired.

The Board finds that appellant has failed to establish that he sustained a recurrence of disability on June 15, 1994 causally related to his January 1, 1990 employment injury.

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability, for which compensation is claimed is causally related to the accepted injury.¹ This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical rationale.² Where no such rationale is present, medical evidence is of diminished probative value.³

In this case, appellant sustained contact dermatitis in 1990 when exposed to chemicals at work. He later filed a claim alleging that he sustained a recurrence of disability on June 15, 1994 which he attributed to his 1990 employment injury.

¹ *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988).

² *Mary S. Brock*, 40 ECAB 461, 471 (1989); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

³ *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

By letter dated February 24, 1994, the employing establishment advised that as of February 3, 1994, appellant was assigned to a modified position with no prolonged exposure to concentrated amounts of refrigerants in confined spaces.

In a form report dated June 15, 1994, Dr. Thurston, appellant's attending dermatologist diagnosed contact dermatitis due to exposure to freon and other chemicals and he indicated by checking the block marked "yes" that the condition was caused or aggravated by appellant's employment. Dr. Thurston wrote "patient breaks out every time exposed to chemicals." He indicated that appellant was totally disabled commencing on June 15, 1994. The Board has held that an opinion on causal relationship, which consists only of checking "yes" to a form report question on whether the claimant's disability was related to the history given is of little probative value.⁴ Without any explanation or rationale, such a report has little probative value and is insufficient to establish causal relationship.⁵ Furthermore, there is no indication that Dr. Thurston knew that appellant's duties had changed as of February 1994⁶ such that his exposure to chemicals was reduced and, consequently, no opinion from Dr. Thurston as to whether such a reduced exposure could also cause a rash. Due to these deficiencies, this report is not sufficient to establish that appellant sustained an employment-related recurrence of disability.

In two letters dated June 29, 1994, Dr. Thurston indicated that appellant was totally disabled between June 15 and 29, 1994 and that he was permanently disabled for work at his regular job due to chronic illness relating to his skin as a result of frequent past exposure to chemicals in his work area. These letters are conflicting in that Dr. Thurston stated that appellant was disabled only through June 29, 1994, but also stated that appellant was permanently disabled. Additionally, he stated that appellant was disabled due to past exposure to chemicals at work but he provided no medical rationale explaining how appellant's 1990 exposure had caused a permanent condition. Therefore, these letters are not sufficient to discharge appellant's burden of proof.

In a report dated August 3, 1994, Dr. Thurston noted that in early 1994 appellant underwent cardiac surgery and that he saw appellant on March 25, 1994 for a flareup of dermatitis on his arms which Dr. Thurston thought was caused by a medication. He stated: "nonwork factors contributing to [appellant's] dermatitis would appear negligible overall. Mevacor [a medication] was thought to have been a factor for a one- or two-week period in late March 1994. However, he has had freedom from his dermatitis in recent weeks when away from his workplace and while still taking Mevacor." However, although Dr. Thurston stated that appellant had been free from his dermatitis condition during times when he was away from work, he also noted in this report that appellant had a rash in March 1994, which was also a time when he was away from work. Therefore, his opinion that appellant's rash and claimed disability in 1994 were caused or aggravated by his job is not sufficiently rationalized in light of

⁴ *Donald W. Long*, 41 ECAB 142, 146 (1989).

⁵ *Id.*

⁶ As noted above, appellant had stated that he did not have prolonged exposure to chemicals at work after February 1994.

the fact that appellant had symptoms of his dermatitis condition even at times when he was not at work. Because Dr. Thurston's opinion as to causal relationship is not sufficiently rationalized, this report is not adequate to establish that appellant sustained an employment-related recurrence of disability in 1994 causally related to his 1990 employment injury.

The record shows that in February 1996 the Office asked Dr. Thurston to provide an opinion as to whether appellant had sustained a permanent sensitization to chemicals due to his 1990 employment injury or whether the 1990 exposure caused only a temporary period of disability and, if temporary, when the disability had ceased. The record shows that Dr. Thurston did not respond to the request for information prior to issuance of the Office's April 25, 1996 decision.

As appellant failed to provide well-rationalized medical evidence establishing that his claimed recurrence of disability in June 1994 was causally related to his 1990 employment injury, the Office properly denied his claim.

The April 25, 1996 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
September 13, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member